



# California Fair Political Practices Commission

March 28, 1989

Honorable Larry Stirling  
State Senator, 39th Senate District  
State Capitol, Room 2137  
Sacramento, CA 95814

Re: Your Request for Advice  
Our File No. A-89-132

Dear Senator Stirling:

We have received your request for advice regarding the mass mailing provisions of the Political Reform Act (the "Act").<sup>1/</sup> As a state senator, you want to ensure that all mailings sent to your constituents are in compliance with the new mass provisions contained in Section 89001, as amended by Proposition 73.

## QUESTION

Does your sample postcard, which is used to notify constituents about town hall meetings, fall within an exception to the mass mailing provisions?

## CONCLUSION

The text of the sample postcard falls within an exception to the mass mailing provisions, as set forth in Regulation 18901(f)(8), which allows elected officials to notify their constituents of public meetings.

In addition, the name of the elected official may be used in the return address if the postcard is the "standard" form used by the office and the return address is the standard letterhead regularly used by the elected official.

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

FACTS

In the past, you have used postcards to notify a large number of your constituents about town hall meetings, which are held periodically throughout the year.

The sample postcard, which you submitted for our review, contains the following message:

Dear Friend:

Please join me at our next Policy Advisory Committee Meeting.

Date \_\_\_\_\_  
Time \_\_\_\_\_  
Place \_\_\_\_\_

The return address on the back of the postcard contains your name, office, and address.

ANALYSIS

Section 89001 of the Political Reform Act, as amended by Proposition 73, provides that "no newsletter or other mass mailing shall be sent at public expense." A mass mailing is defined in Section 82041.5 as two hundred or more substantially similar pieces of mail. The Commission has determined that the intent of the voters in adopting Proposition 73 was to prevent elected officers from gaining an advantage from incumbency by using public funds to send out newsletters and other mass mailings which increase their name recognition.

At its December 6, 1988 meeting, the Commission adopted Regulation 18901 (copy enclosed),<sup>2/</sup> which implements Section 89001. Regulation 18901(a) provides:

(a) Except as provided herein, a newsletter or other mass mailing is "sent at public expense" within the meaning of Government Code Section 89001 if any of the costs of design, production, printing or distribution, is paid for with public moneys as defined in Government Code Section 85102(e).

Regulation 18901(c)(1) states that a newsletter or other mass mailing may not be sent at public expense if:

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<sup>2/</sup> This regulation was approved by the Office of Administrative Law on March 13, 1989 and will be in effect on April 12, 1989. We advise that the permanent regulation be followed now.

(1) The name of the elected officer or his photograph appears on the document; and

(A) The elected officer exercises direction and control over the content, production, or distribution of the document, or

(B) The document is sent at the request or suggestion of the elected officer or his or her agent; or

(C) The document is signed by, or is designated as being from, the elected officer or his or her office....

Regulation 18901(f) lists several exceptions to the general rule that no newsletter or mass mailing shall be sent at public expense. However, please note that all exceptions to the mass mailing provisions are to be construed narrowly. (See Estate of Banerjee (1978) 21 Cal. 3d 527, 540.) For example, Regulation 18901(f)(8) provides that:

(f) The following newsletters or other mass mailings are not prohibited by Government Code Section 89001 if the mailing is sent to the persons specified in each instance below and the mailing consists of:

\* \* \*

(8) Mailings sent to the elected officer's constituents which directly relate to that elected official's incumbent governmental duties and which solely include the time, date, place, and a concise description of the subject matter of a public meeting to be held by the elected officer; (Emphasis added.)

To apply this exception, the mailing must directly relate to the elected official's incumbent governmental duties, must only include the time, date, and place of the meeting, and a concise description of the subject matter. Furthermore, this exception allows the official's name to appear once in the concise description of the meeting, but it does not allow the mailing to be signed by the official.

The purpose of this exception is to allow elected officials to notify their constituents of public meetings. In reviewing your postcard, it appears that the text meets the restrictions of the regulation. Therefore, the sample postcard may be utilized.

Honorable Larry Stirling  
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There is another exception to the mass mailing regulation which governs use of an elected official's name as part of the return address on a postcard or envelope. Regulation 18901(e) establishes an exception if certain criteria are met. It states:

(e) A newsletter or other mass mailing is not prohibited by Government Code Section 89001 if it meets all of the following criteria:

(1). The stationery, forms and envelopes used for the mailing are the standard stationery, forms and envelopes of the agency or committee of the agency; and

(2) The name of an elected officer who is affiliated with the agency or committee appears, in the standard letterhead or logotype of the stationery, forms or envelopes of the agency, a committee of the agency, or the elected official and the newsletter or mass mailing is not otherwise prohibited under subdivision (c).

As used in this subdivision, the term "letterhead or logotype" includes a listing of agency or committee officials or members, in which all who are listed appear in the same typeface and type size and location in the layout of the newsletter or other mass mailing.

As used in this subdivision, the term "standard letterhead or logotype" refers to any regularly used by the agency, subunit or the elected officer....

Therefore, the postcard must be the "standard" form used by your office and the return address must be the "standard letterhead or logotype" regularly used. If such standard letterhead is regularly used by your office, your name may be included in the return address. As stated above, all exceptions to the mass mailing provisions are to be construed narrowly.

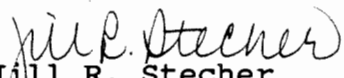
I hope this answers your questions regarding the mass mailing

Honorable Larry Stirling  
March 28, 1989  
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provisions as they pertain to meeting notices. If you have any questions, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

  
By: Jill R. Stecher  
Counsel, Legal Division

DMG:JRS:plh

Enclosure

Senate  
California Legislature

FEB 21 9 20 AM '89



**LARRY STIRLING**  
SENATOR, THIRTY-NINTH DISTRICT

February 23, 1989

Mr. John Larson  
Chairman  
Fair Political Practices Commission  
P.O. Box 807  
Sacramento, CA 95804

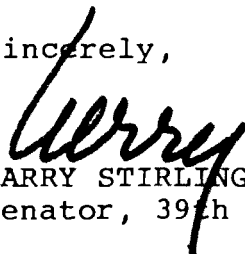
Dear Mr. Larson:

Enclosed please find a sample of a card that has been used in the past to notify a large number of constituents about town hall type meetings held periodically throughout the year.

I would appreciate knowing if these cards can be printed and mailed at government expense under the exemption provisions of the mass mailing regulations.

Thank you for your prompt attention to this matter.

Sincerely,

  
LARRY STIRLING  
Senator, 39th District

LS:bhb  
Enclosure: As Stated  
SF 3/9

**California Legislature**

Larry Stirling  
Assemblyman 77th District  
7777 Alvarado Road  
Suite 377  
La Mesa, CA 92041

Bulk Rate  
U.S. POSTAGE  
PAID  
STATE OF  
CALIFORNIA  
ASSEMBLY

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Dear Friend:

Please join me at our next Policy  
Advisory Committee Meeting.

~~Dear Friend:~~  
~~xxxxxxx~~

Thank you for volunteering to serve on the 77th Assembly District Policy Advisory  
Committee (PAC). I welcome the opportunity to receive your thoughts and  
suggestions on issues of vital concern to our community at our next general  
meeting.

Date: Wednesday, September 30, 1987

Time: 7:00 p.m.

Place: Hearst Elementary School Auditorium  
6230 Del Cerro Blvd., San Diego  
(Take I-8 to College Avenue, North to Del Cerro Blvd.)

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STATE CAPITOL  
SACRAMENTO, CA 95814  
PHONE: (916) 445-3952

Senate  
California Legislature



**LARRY STIRLING**  
SENATOR, THIRTY-NINTH DISTRICT

89-132  
7777 ALVARADO ROAD  
SUITE 377  
LA MESA, CA 92041  
PHONE: (619) 237-7777

Feb 21 5 33 AM '89

February 23, 1989

Mr. John Larson  
Chairman  
Fair Political Practices Commission  
P.O. Box 807  
Sacramento, CA 95804

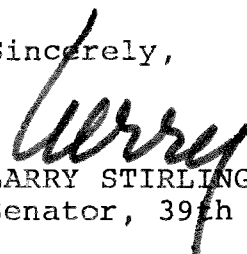
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Senator, 39th District

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Enclosure: As Stated  
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**California Legislature**

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Assemblyman 77th District  
7777 Alvarado Road  
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US POSTAGE  
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STATE OF  
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ASSEMBLY

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# California Fair Political Practices Commission

March 2, 1989

Honorable Larry Stirling  
Member of the Senate  
State Capitol  
Sacramento, CA 95814

Re: Letter No. 89-132

Dear Senator Stirling:

Your letter requesting advice under the Political Reform Act was received on February 27, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jill Stecher an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329.)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

*Diane M. Griffiths* by jeh  
Diane M. Griffiths  
General Counsel

DMG:plh